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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/796,947	03/10/2004	Salomon Amar	50128/006002	4604 ^b
21559	7590	10/19/2007	EXAMINER	
CLARK & ELBING LLP 101 FEDERAL STREET BOSTON, MA 02110			JOIKE, MICHELE K	
		ART UNIT	PAPER NUMBER	
		1636		
		NOTIFICATION DATE	DELIVERY MODE	
		10/19/2007	ELECTRONIC	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentadministrator@clarkelbing.com

Office Action Summary	Application No.	Applicant(s)	
	10/796,947	AMAR ET AL.	
	Examiner	Art Unit	
	Michele K. Joike, Ph.D.	1636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 30 July 2007.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-22 and 24-53 is/are pending in the application.
 - 4a) Of the above claim(s) 1-18 and 27-53 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 19-22 is/are rejected.
- 7) Claim(s) 24-26 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Receipt is acknowledged of a reply to the previous Office Action, filed July 30, 2007. Claims 1-18 and 27-53 are withdrawn, and claims 19-26 are examined. Any rejection of record in the previous Office Action, mailed March 26, 2007, that is not addressed in this action has been withdrawn.

Because this Office Action only maintains rejections set forth in the previous Office Action and/or sets forth new rejections that are necessitated by amendment, this Office Action is made FINAL.

Election/Restrictions

This application contains claims 1-18 and 27-53 drawn to an invention nonelected with traverse. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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Claims 19 -21 stand rejected under 35 U.S.C. 102(b) as being anticipated by US 6,077,693. As amended, claim 22 (drawn to SEQ ID NO: 3) is also rejected under 35 U.S.C. 102(b) as being anticipated by US 6,077,693.

Response to Arguments Concerning Claim Rejections – 35 USC § 102 (b)

Applicant's arguments filed July 30, 2007 have been fully considered but they are not persuasive.

The following grounds of traversal are presented:

Applicants argue that US 6,077,693 fail to teach the isolated peptide fragments recited by claim 19, which is drawn to the amino acid sequence of SEQ ID NO: 5 that lacks one or more amino acid residues in the N- or C-terminus and is capable of binding to the TNF- α promoter.

Applicants' arguments are not found persuasive for the following reasons.

Claim 19 claims an isolated peptide fragment comprising the sequence of SEQ ID NO: 5 that is capable of binding to the TNF- α promoter. The language is open, which means additional amino acids can make up the peptide fragment. US 6,077,693 teaches SEQ ID NO: 1, which contains the sequence SQTWREPGAAGSPFHL (SEQ ID NO: 5). SQTWREPGAAGSPFHL are amino acids 165-180 of SEQ ID NO: 1. LSQTWREPGAAGSPFHL (SEQ ID NO: 3) are amino acids 164-180 of SEQ ID NO: 1. US 6,077,693 also teaches a fragment of SEQ ID NO: 1 that still retains biological activity (column 5). The fragment is from about 5 to about 15 amino acids in length. Therefore, at least one N-terminal or C-terminal residue is removed. As discussed in

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the previous office action, SEQ ID NO: 1 is a known human promonocyte associated protein, the discovery that PRMNC can enhance transcription of TNF- α does not render SEQ ID NO: 1 patentably new, and is an inherent property. SEQ ID NO: 1 of US 6,077,693 satisfies the limitations of claims 19-22.

Allowable Subject Matter

Claims 24-26 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michele K. Joike, Ph.D. whose telephone number is 571-272-5915. The examiner can normally be reached on M-F, 9:00-6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Woitach can be reached on 571-272-0739. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Michele K Joike, Ph.D.
Examiner
Art Unit 1636



DAVID GUZO
PRIMARY EXAMINER